

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

KENNETH E. BENTON,

Plaintiff,

v.

Case No. 3:23-cv-987-MMH-PDB

STEVEN M. FAHLGREN,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on the Report and Recommendation (Dkt. No. 4; Report), entered by the Honorable Patricia D. Barksdale, United States Magistrate Judge, on September 7, 2023. In the Report, Judge Barksdale recommends that this case be dismissed. See Report at 1, 6. On September 22, 2023, Plaintiff filed his Response to Judge Requesting to Proceed (Dkt. No. 5; Objections), which the Court construes as his objections to the Report. Thus, this matter is ripe for review.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Pursuant to Rule 72, Federal Rules of Civil Procedure (Rule(s)), the Court “must determine de novo any part of the magistrate judge’s disposition that

has been properly objected to.” See Rule 72(b)(3); see also 28 U.S.C. § 636(b)(1). However, a party waives the right to challenge on appeal any unobjected-to factual and legal conclusions. See 11th Cir. R. 3-1.<sup>1</sup> As such, the Court reviews those portions of the Magistrate Judge’s findings to which no objection was filed for plain error and only if necessary, in the interests of justice. See id.; see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate [judge’s] factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Dupree v. Warden, 715 F.3d 1295, 1304-05 (11th Cir. 2013) (recommending the adoption of what would become 11th Circuit Rule 3-1 so that district courts do not have “to spend significant amounts of time and resources reviewing every issue—whether objected to or not.”).

In the Objections, Plaintiff expresses his desire “to move forward with my complaint.” Objections at 1. However, he identifies no legal or factual error in the Magistrate Judge’s analysis or her conclusions. Upon review of the record, the Court determines that the Magistrate Judge’s analysis is fully supported by the law. As such, the Court will overrule the Objections and

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<sup>1</sup> The Magistrate Judge properly informed the parties of the time period for objecting and the consequences of failing to do so. See Report at 6-7.

accept and adopt the legal and factual conclusions recommended by the Magistrate Judge.

In light of the foregoing, it is hereby

**ORDERED:**

1. The objections set forth in Plaintiff's Response to Judge Requesting to Proceed (Dkt. No. 5) are **OVERRULED**.
2. The Magistrate Judge's Report and Recommendation (Dkt. No. 4) is **ADOPTED** as the opinion of the Court.
3. This case is **DISMISSED**.
4. The Clerk of Court is directed to enter judgment dismissing this case, terminate all pending motions and deadlines as moot, and close the file.

**DONE AND ORDERED** in Jacksonville, Florida, this 28th day of September, 2023.

  
**MARCIA MORALES HOWARD**  
United States District Judge

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Copies to:

Counsel of Record  
Pro Se Party